Further extension of duration of the Kerala Legislative Assembly and amendment of Act 33 of 1975.

2. The period of five years [being the period for which the Legislative Assembly of a State may, under clause (1) of article 172 of the Constitution, continue from the date appointed for its first meeting] in relation to the Legislative Assembly of the State of Kerala, which was extended for a period of six months by the Kerala Legislative Assembly (Extension of Duration) Act, 1975 and for a further period of six months by the Kerala Legislative Assembly (Extension of Duration) Amendment Act, 1976, is hereby extended for a further period of six months and accordingly in section 2 of that Act, for the words "one year", wherever they occur, the words "eighteen months" shall be substituted. 46 of 1976.

S. K. MAITRA,
Jt. Secy. to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

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MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 9th September, 1976/Bhadra 18, 1898 (Saka)

The following Act of Parliament received the assent of the President on the 7th September, 1976, and is hereby published for general information:—

THE CENTRAL SALES TAX (AMENDMENT) ACT, 1976

No. 103 OF 1976

[*7th September*, 1976]

An Act further to amend the Central Sales Tax Act, 1956.

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Central Sales Tax (Amendment) Act, 1976.

74 of 1956.

Amendment of section 2.

2. In section 2 of the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act),—

(*a*) after clause (*a*), the following clauses shall be inserted, namely:—

'(*aa*) "business" includes—

(*i*) any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern; and

(*ii*) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;

(*ab*) "crossing the customs frontiers of India" means crossing the limits of the area of a customs station in which imported goods or export goods are ordinarily kept before clearance by customs authorities.

Explanation.—For the purposes of this clause, "customs station" and "customs authorities" shall have the same meanings as in the Customs Act, 1962;'; 52 of 1962.

(*b*) for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "dealer" means any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly or indirectly, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, and includes—

(*i*) a local authority, a body corporate, a company, any co-operative society or other society, club, firm, Hindu undivided family or other association of persons which carries on such business;

(*ii*) a factor, broker, commission agent, *del credere* agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing, goods belonging to any principal whether disclosed or not; and

(*iii*) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal.

Explanation 1.—Every person who acts as an agent, in any State, of a dealer residing outside that State and buys, sells, supplies, or distributes, goods in the State or acts on behalf of such dealer as—

(*i*) a mercantile agent as defined in the Sale of Goods Act, 1930, or 3 of 1930.

(*ii*) an agent for handling of goods or documents of title relating to goods, or

(*iii*) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment,

and every local branch or office in a State of a firm registered outside that State or a company or other body corporate, the principal office or headquarters whereof is outside that State, shall be deemed to be a dealer for the purposes of this Act.

Explanation 2.—A Government which, whether or not in the course of business, buys, sells, supplies or distributes, goods, directly or otherwise, for cash or for deferred payment or for

commission, remuneration or other valuable consideration, shall, except in relation to any sale, supply or distribution of surplus, un-serviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act;'.

Amendment of section 5.

30. In section 5 of the principal Act, after sub-section (2), the following sub-section shall be inserted, and shall be deemed to have been inserted with effect from the 1st day of April, 1976, namely:—

"(3) Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.".

Amendment of section 6.

4. In section 6 of the principal Act, in sub-section (1), the following proviso shall be inserted, and shall be deemed to have been inserted, with effect from the 1st day of April, 1976, namely:—

"Provided that a dealer shall not be liable to pay tax under this Act on any sale of goods which, in accordance with the provisions of sub-section (3) of section 5, is a sale in the course of export of those goods out of the territory of India.".

Amendment of section 7.

5. In section 7 of the principal Act, for sub-section (3B), the following sub-sections shall be substituted, namely:—

"(3B) No dealer shall be required to furnish any security under sub-section (2A) or any security or additional security under sub-section (3A) unless he has been given an opportunity of being heard.

(3BB) The amount of security which a dealer may be required to furnish under sub-section (2A) or sub-section (3A) or the aggregate of the amount of such security and the amount of additional security which he may be required to furnish under sub-section (3A), by the authority referred to therein, shall not exceed—

(a) in the case of a dealer other than a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax payable under this Act, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security or, as the case may be, additional security is required to be furnished; and

(b) in the case of a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax leviable under this Act, in accordance with the estimate of such authority on the sales to such dealer in the course of inter-State trade or commerce in the year in which such security or, as the case may be, additional security is required to be furnished, had such dealer been not registered under this Act.".

Amendment of section 9.

6. In section 9 of the principal Act,—

(a) in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

"Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to

the first sale in respect of the same goods and being also a sale which does not fall within sub-section (2) of section 6, the tax shall be levied and collected—

(a) where such subsequent sale has been effected by a registered dealer, in the State from which the registered dealer obtained or, as the case may be, could have obtained, the form prescribed for the purposes of clause (a) of sub-section (4) of section 8 in connection with the purchase of such goods, and

(b) where such subsequent sale has been effected by an unregistered dealer, in the State from which such subsequent sale has been effected.";

(b) in sub-section (2), before the words "compounding of offences", the words "charging or payment of interest," shall be inserted and shall be deemed always to have been inserted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) All the provisions relating to offences and penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence but excluding the provisions relating to matters provided for in sections 10 and 10A) of the general sales tax law of each State shall, with necessary modifications, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of any tax required to be collected under this Act in such State or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act were a tax under such sales tax law.".

Amendment of section 14

7. In section 14 of the principal Act,—

(a) clause (i) shall be re-numbered as clause (ia) and before clause (ia) as so re-numbered, the following clause shall be inserted, namely:—

"(i) cereals, that is to say,—

(i) paddy (*Oryza sativa L.*);

(ii) rice (*Oryza sativa L.*);

(iii) wheat (*Triticum vulgare, T. compactum, T. sphaerococcum, T. durum, T. aestivum L., T. dicoccum*);

(iv) *jowar* or milo (*Sorghum vulgare Pers*);

(v) *bajra* (*Pennisetum typhoideum L.*);

(vi) malze (*Zea mays D.*);

(vii) *ragi* (*Eleusine coracana Gaertn.*);

(viii) kodon (*Paspalum scrobiculatum L.*);

(ix) *kutki* (*Panicum miliare L.*);

(x) barley (*Hordeum vulgare L.*);";

(b) after clause (iib), the following clause shall be inserted, namely:—

"(*iic*) crude oil, that is to say, crude petroleum oils and crude oils obtained from bituminous minerals (such as shale, calcareous rock, sand), whatever their composition, whether obtained from normal or condensation oil-deposits or by the destructive distillation of bituminous minerals and whether or not subjected to all or any of the following processes:—

(*1*) decantation;

(*2*) de-salting;

(*3*) dehydration;

(*4*) stabilisation in order to normalise the vapour pressure;

(*5*) elimination of very light fractions with a view to returning them to the oil-deposits in order to improve the drainage and maintain the pressure;

(*6*) the addition of only those hydrocarbons previously recovered by physical methods during the course of the above-mentioned processes;

(*7*) any other minor process (including addition of pour point depressants or flow improvers) which does not change the essential character of the substance;";

(c) after clause (*vi*), the following clause shall be inserted, namely:—

"(*via*) pulses, that is to say,—

(*i*) gram or *gulab* gram (*Cicerarietinum L.*);

(*ii*) *tur* or *arhar* (*Cajanus cajan*);

(*iii*) *moong* or green gram (*Phaseolus aureus*);

(*iv*) *masur* or lentil (*Lens esculenta Moench, Lens culinaris Medic.*);

(*v*) *urad* or black gram (*Phaseolus mungo*);

(*vi*) *moth* (*Phaseolus aconitifolius Jacq*);

(*vii*) *lakh* or *khesari* (*Lathyrus sativus L.*);".

Amendment of section 15.

8. In section 15 of the principal Act, after clause (*b*), the following clauses shall be inserted, namely:—

"(c) where a tax has been levied under that law in respect of the sale or purchase inside the State of any paddy referred to in sub-clause (*i*) of clause (*i*) of section 14, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy;

(*d*) each of the pulses referred to in clause (*via*) of section 14, whether whole or separated, and whether with or without husk, shall be treated as a single commodity for the purposes of levy of tax under that law.".

Validation.

9. (*1*) The provisions of section 9 of the principal Act shall have effect, and shall be deemed always to have had effect, in relation to the period commencing on the 5th day of January, 1957, and ending with the date immediately preceding the date of commencement of this Act as if that section also provided—

(*a*) that all the provisions relating to penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment on conviction for an offence but excluding the provisions relating to matters provided for in sections 10 and 10A of the principal Act and the provisions relating to offences) of the general sales tax law of each State shall, with necessary modifications, apply in relation to—

(*i*) the assessment, re-assessment, collection and enforcement of payment of any tax required to be collected under the principal Act in such State; and

(*ii*) any process connected with such assessment, re-assessment, collection or enforcement of payment; and

(*b*) that for the purpose of the application of the provisions of such law, the tax under the principal Act shall be deemed to be tax under such law.

(*2*) Notwithstanding anything contained in any judgment, decree or order of any court or tribunal or other authority, all penalties under the general sales tax law of any State imposed or purporting to have been imposed in pursuance of the provisions of section 9 of the principal Act, and all proceedings, acts or things taken or done for the purpose of, or in relation to, the imposition or collection of such penalties, before the commencement of this Act shall, for all purposes, be deemed to be and to have always been imposed, taken or done as validly and effectively as if the provisions of sub-section (*1*) had been in force when such penalties were imposed or proceedings or acts or things were taken or done and, accordingly,—

(*a*) no suit or other proceedings shall be maintained or continued in or before any court or any tribunal or other authority for the refund of any amount received or realised by way of such penalty;

(*b*) no court, tribunal or other authority shall enforce any decree or order directing the refund of any amount received or realised by way of such penalty;

(*c*) where any amount which had been received or realised by way of such penalty had been refunded before the commencement of this Act and such refund would not have been allowed if the provisions of sub-section (*1*) had been in force on the date on which the order for such refund was passed, the amount so refunded may be recovered as an arrear of tax under the principal Act;

(*d*) any proceeding, act or thing which could have been validly taken, continued or done for the imposition of such penalty at any time before the commencement of this Act if the provisions of sub-section (*1*) had then been in force but which had not been taken, continued or done, may after such commencement be taken, continued or done.

(*3*) Nothing in sub-section (*2*) shall be construed as preventing any person,—

(*a*) from questioning the imposition or collection of any penalty or any proceedings, act or thing in connection therewith; or

(*b*) from claiming any refund,

in accordance with the provisions of the principal Act read with sub-section (*1*).

Explanation.—In computing the period of limitation, if any, for questioning as provided in clause (*a*) or for claiming as provided in clause (*b*), the period commencing on the 27th day of February, 1975 and ending with the date of commencement of this Act shall be excluded.

(*4*) Any interest charged or paid or purporting to have been charged or paid, and any proceeding, act or thing taken or done or purporting to have been taken or done for charging or paying any interest, under the provisions of the general sales tax law of any State read with section 9 of the principal Act, before the commencement of this Act, shall be deemed to be and to have always been as validly charged, paid, taken or done as if the amendment made by clause (*b*) of section 6 had been in force when such interest was charged or paid or when such proceeding, act or thing was taken or done.

Explanation.—For the purposes of this section, "general sales tax law" shall have the same meaning as in the principal Act.

S. K. MAITRA,
Jt. Secy. to the Govt. of India.

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